

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA : 02 Cr. 1060 (LAP)  
:   
-against- :   
:   
RUBEN ARCHULETA, :   
:   
Defendant. :   
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ORDER

LORETTA A. PRESKA, Senior United States District Judge:


In his letter dated September 11, 2019 [dkt. no. 169], Defendant notes that he was sentenced to 264 months imprisonment for violations of 21 U.S.C. §§ 846 and 853. He also notes that "the mandatory minimum sentence of that crime was and is today 240-months." Mr. Archuleta requests resentencing based on United States Sentencing Guidelines Sections 782 and 788 which authorized downward revision in the Guidelines of two points. Mr. Archuleta requests a reduction in his sentence to the 240-months mandatory minimum.

Courts have agreed, however, that where a statutory mandatory minimum sentence is applicable, the passage of a retroactive guideline amendment is irrelevant. See, e.g., United States v. Dimeo, 28 F.3d 240, 241 (1st Cir. 1994); United States v. Marshall, 95 F. 3d 700, 701 (8th Cir. 1996), United States v. Mullanix, 99 F.3d 323, 324 (9th Cir. 1996); United States v. Smartt, 129 F.3d 539, 542 (10th Cir. 1997); United States v. Eggersdorf, 126 F.3d 1318, 1320 (11th Cir. 1997).

Accordingly, the Court does not have the authority to reduce Mr. Archuleta's sentence, and thus his request is denied.

SO ORDERED.

Dated: New York, New York  
November 20, 2019

  
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Loretta A. Preska,  
Senior U.S.D.J.